

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2008-357-E - ORDER NO. 2008-772
NOVEMBER 26, 2008

IN RE: Ann Mathis)	ORDER GRANTING
)	CONFIDENTIAL
Complainant/Petitioner)	TREATMENT AND
)	ALLOWING TEN DAYS
vs.)	TO RESPOND TO
)	DUKE'S MOTION TO
Duke Energy Carolinas, LLC)	DISMISS
)	
Defendant/Respondent)	

This matter comes before the Public Service Commission of South Carolina ("Commission") on a Complaint filed by Ann Mathis ("Mathis") alleging that Duke Energy Carolinas, LLC ("Duke") mismanaged her bill and past arrearages. In response, Duke submitted an Answer and Motion to Dismiss stating in part that Mathis has failed to adhere to deferred payment plans that could result in a write-off, causing hardship to rate payers overall if other customers are required to pay for her services. Additionally, Duke submitted the Affidavit of Barbara G. Yarbrough in response to an October 22, 2008 Directive instructing Duke to provide a sworn verification of all information it wishes to be considered in support of its Answer and Motion to Dismiss.¹ Further, Duke requests confidential treatment for three exhibits included with these filings, claiming they contain personal information regarding Mathis.

¹ Commission Regulation 103-822 provides, in part: "A verification under oath shall be required if facts are alleged to be true within the knowledge of the person filing the pleading."

Specifically, Duke seeks confidential treatment of Exhibits 1 and 2 of its Answer and Motion to Dismiss and Exhibit A of its Affidavit of Barbara G. Yarbrough under Commission Order No. 2005-226 (May 6, 2005), “Order Requiring Designation of Confidential Materials.” Exhibit 1 of the Answer and Motion to Dismiss contains the billing payment histories for Christopher Mathis and Ann Mathis and is designated as "Confidential" and filed under seal. Exhibit 2 of the Answer and Motion to Dismiss is the ORS Report and Notice Letter of this matter and is also designated as "Confidential" and filed under seal. Exhibit A of Duke’s Affidavit of Barbara G. Yarbrough contains updated billing and payment history of Ann Mathis, including her account number and electricity usage data, and it too is marked "Confidential" and filed under seal.

Pursuant to Order No. 2005-226, Duke delineated in both the Answer and Motion to Dismiss and the Affidavit of Barbara G. Yarbrough the material of a personal nature for which the confidential treatment is sought, and filed such information in a separate package clearly marked “confidential.” The South Carolina Freedom of Information Act (“FOIA”) allows exemption from disclosure for proprietary business information that meets a definition of “personal information.” S.C. Code Ann. Section 30-4-40(a)(2) states that matters which may be exempt from FOIA include: “(2) Information of a personal nature where the public disclosure thereof would constitute unreasonable invasion of personal privacy.”

We find that the information for which Duke seeks protection as confidential falls within the definition of materials which may be exempted from disclosure under FOIA. The Commission therefore grants the requests of Duke and provides that Exhibits 1 and 2

of the Answer and Motion to Dismiss and Exhibit A of the Affidavit of Barbara G. Yarbrough be considered proprietary and confidential and filed under seal.

With regard to Duke's Motion to Dismiss, we believe that Mathis should have ten (10) days from service of this Order to respond. If she fails to file a response, the Motion to Dismiss will be considered unopposed, which may result in this Commission granting the Motion.

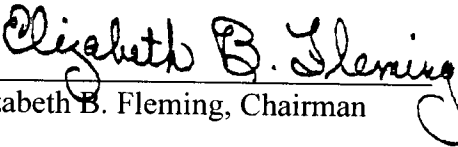
IT IS THEREFORE ORDERED:

1. The requests of Duke for confidential treatment of Exhibits 1 and 2 of the Answer and Motion to Dismiss and Exhibit A of the Affidavit of Barbara G. Yarbrough are granted, as these contain personal information where the public disclosure thereof would constitute unreasonable invasion of personal privacy. The Commission and Commission Staff shall treat the materials as confidential, and such materials shall not be subject to public disclosure absent further order of this Commission.

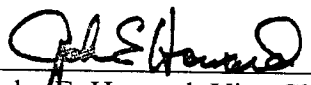
2. Ann Mathis has ten (10) days from the service of this Order to respond to Duke's Motion to Dismiss with the understanding that failure to respond leaves the Motion unopposed and may result in the Commission granting Duke's Motion to Dismiss.

3. This Order shall remain in full force and effect until further order of the Commission.

BY ORDER OF THE COMMISSION:


Elizabeth B. Fleming, Chairman

ATTEST:


John E. Howard, Vice Chairman
(SEAL)